IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION.

CHAMBER SUMMONS No.1534 of 2005

IN

EXECUTION **APPLICATION No. 328 of 2005.**

IN

ARBITRATION No. 269 of 2001

L & T Finance Ltd. ..Claimants/
Plaintiffs.

Versus

T. Jagadishwara Rao. ..Defendant
[Hirer]

And

T. Linga Rao, Guarantor ..Applicant.
[Orig.Deft.no.2]

Mrs. Shakuntala Joshi for the Claimants/Plaintiffs.

Mr.R.C. Dubey, Advocate for the Applicant.

CORAM : S.C.DHARMADHIKARI,J.

DATE : 21st June, 2006.

P.C.

1] Execution Application No.328 of 2005, in which the present Chamber Summons has been taken out, is for execution of a decree passed in favour of the claimants.

2] The present Chamber summons is filed by original defendant no.2 for cancellation of a non-bailable warrant issued against him. This prayer is made on the basis that the applicant has made part payment of the decretal amount inasmuch as he has paid a sum of rupees eight lakhs, but the decretal amount is of Rs. 20,60,612/- with further interest thereon @ 18% per annum. Non-bailable warrant was issued by this Court on 5th April, 2006 because there was non-compliance with the earlier orders passed in Execution by this Court. Now, non-bailable warrant is executed. Defendant no.2 was detained and thereafter he was enlarged on bail. He has paid the

amount of rupees eight lakhs. In my view, proceedings of the present nature are instituted as a last resort and orders passed issuing non-bailable warrants in execution proceeding. The applicant having shown bonafides he is enlarged on bail. The claimants are entitled to appropriate the sum of rupees eight lakhs which has been deposited with them towards the decretal amount claimed and for the balance it is needless to state that they are at liberty to take out appropriate proceedings against the judgment debtors.

3] The Chamber summons is disposed of in the above terms. Needless to state that in the light of this order the surety bond stands discharged.

(S.C.DHARMADHIKARI,J)